

DEC 2 - 1996

Before the
Federal Communications Commission
Washington, DC 20554

Federal Communications Commission
Office of Secretary

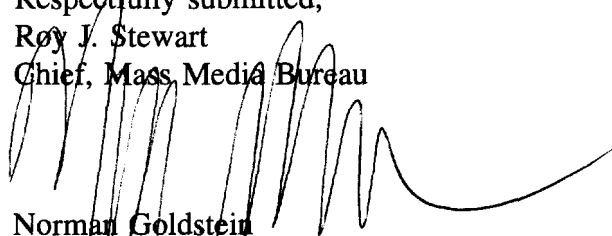
In the Matter of) MM DOCKET NO. 96-172
)
MARIO LOREDO)
)
Order to Show Cause Why the License)
for Station KZQD(FM) in Liberal, Kansas)
Should Not be Revoked)

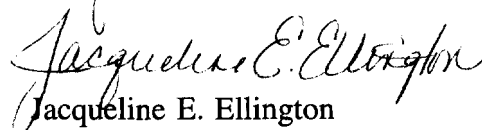
To: Administrative Law Judge
Richard L. Sippel

MASS MEDIA BUREAU'S MOTION TO RECEIVE EXHIBIT

By Order, FCC 96M-254, released November 18, 1996, the Mass Media Bureau was instructed to submit to the Presiding Judge a copy of Instruction C to FCC Form 314 that was in effect in 1993. Attached is a copy of Instruction C. The Mass Media Bureau requests that Instruction C be received into evidence as "MMB Ex. 3".

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau


Norman Goldstein
Chief, Complaints and
Political Programming Branch


Jacqueline E. Ellington
Attorney
Mass Media Bureau

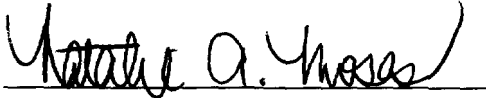
Federal Communications Commission
2025 M Street, N.W., Suite 8210
Washington, DC 20554
(202) 418-1430
December 2, 1996

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CERTIFICATE OF SERVICE

Natalie Moses, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 2nd day of December, 1996, sent by regular United States mail, U.S. Government frank, a copy of the foregoing "**Mass Media Bureau's Motion to Receive Exhibit**" to:

Gerald Stevens-Kittner
Arter & Hadden
1801 K Street, NW, Suite 400K
Washington, DC 20006



Natalie Moses

- (1) to identify the individuals or entities that have an attributable interest in another medium of mass communications in the area;
- (2) to state the nature and extent of the interest in the applicant; and
- (3) to identify the other medium and the nature and extent of the interest held.

In the absence of such interests, those holding nonattributable interests in the applicant need not be identified. In these circumstances, however, the applicant is required to certify that no such individual or entity has an attributable interest in another medium of mass communications in the same area, as described above.

- C. All applications must comply with Section 310 of the Communications Act, as amended. Specifically, Section 310 proscribes issuance of a construction permit or station license to an alien, the representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any corporation of which any officer or director is an alien or of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or by a corporation organized under the laws of a foreign country. This proscription could likewise apply to any corporation directly or indirectly controlled by another corporation of which (a) any officer is, (b) more than 25% of the directors are, or (c) more than 25% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative. The Commission may also deny a construction permit or station license to a corporation controlled by another corporation organized under the laws of a foreign country.

Section 310 of the Communications Act has been interpreted with respect to limited partnerships to prohibit equity contributions or voting interests of alien limited partners, which in the aggregate exceed 20% in a broadcast licensee or which in the aggregate exceed 25% in a partnership which holds a controlling interest in a broadcast licensee. The interests held by aliens in a licensee through intervening domestically organized limited partnerships can be determined by multiplication of any intervening insulated interests in the manner set forth above with respect to corporate applicants, except that insulated limited partnership interests exceeding 50% may be multiplied rather than considered as a 100% interest. However, the multiplier is not used in calculating the limited partnership link in the ownership chain **UNLESS** the applicant is able to certify that the alien partner is effectively insulated from active involvement in the partnership affairs. For example, see Instruction A, above.

The applicant must determine the citizenship of each officer and director. It must also determine the citizenship of each shareholder or else explain how it determined the relevant percentages. For large corporations, a sample survey using a recognized statistical method is acceptable for this purpose.

- D. Commission policies and litigation reporting requirements for broadcast applicants are directed to focusing on misconduct which violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to Question 7, Part I, Section I, and to Question 14, Section II, applicants are advised that the parameters of the Commission's policies and requirements are fully set forth in Character Qualifications, 102 FCC 2d 1179 (1985), reconsideration denied, 1 FCC Rcd 421 (1986), as modified, 5 FCC Rcd 3252 (1990), reconsideration granted in part, 6 FCC Rcd 3448 (1991).

For the purpose of this question, the term "parties to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable under the Commission's multiple ownership rules. See 47 C.F.R. Section 73.3555. For further information, see also Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), reconsideration granted in part, 58 RR 2d 604 (1985), further modified on reconsideration, 61 RR 2d 739 (1986).

INSTRUCTIONS FOR ASSIGNEE'S FINANCIAL QUALIFICATIONS

- A. An applicant filing Form 314 must attest to being financially qualified to effectuate its proposal, with sufficient net liquid assets on hand or available from committed sources of funds to consummate the transaction and operate the facilities for three months. In so certifying, the applicant is also attesting that it can and will meet all contractual requirements, if any, as to collateral, guarantees, and capital investments.
- B. Documentation supporting the attestation of financial qualification need not be submitted with this application but must be made available to the Commission upon request. The Commission encourages that all financial statements used in the preparation of this application be prepared in accordance with generally accepted accounting principles.

NOTE: If the transaction proposed by this application is for the assignment of a construction permit for an unbuilt station, as defined in 47 C.F.R. Section 73.3597(c), the assignee, in certifying under A above, is also attesting to the availability of sufficient net liquid assets to construct the facilities.

INSTRUCTIONS FOR ASSIGNEE'S PROGRAM SERVICE STATEMENT

Assignees need only file a program service statement called for in Section IV of this application. See *Deregulation of Radio*, 84 FCC 2d 968 (1981), reconsideration denied, 87 FCC 2d 797; *Commercial TV Stations*, 98 FCC 2d 1076 (1984), reconsideration denied, 60 RR 2d 526 (1986); and *Public Broadcasting Stations (Programming and Reporting Requirements)*, 98 FCC 2d 746 (1984). While this statement need not take the form of a detailed programming proposal, it must be sufficient to evince an understanding on the part of each assignee of its obligation to provide programming responsive to the needs of the community. See *Programming Information in Broadcast Applications*, 3 FCC Rcd 5467 (1988).

NOTE: With respect to noncommercial, educational broadcast stations, no program service statement need be filed where the station's programming would be **wholly** instructional. Instructional programming includes all programs designed to be utilized by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers, and college credit courses are examples of instructional programs.

INSTRUCTIONS FOR ASSIGNEE'S EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

A. Applicants seeking authority to construct a commercial, noncommercial or international broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, an applicant who proposes to employ five or more full-time station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives, and Hispanics). This is submitted to the Commission as the Model EEO Program on FCC Form 396-A, which should be filed as part of the application. If minority group representation in the available labor force is less than five percent (in the aggregate), a program for minority group members is not required. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ less than five full-time employees, no EEO program for women or minorities need be filed.

B. Guidelines for developing an Equal Employment Opportunity program are set forth in FCC Form 396-A.

NOTE: This five-point Broadcast Equal Employment Opportunity Model Program Report (FCC 396-A) is to be utilized only by applicants for new construction permits, assignees and transferees.

INSTRUCTIONS FOR CERTIFICATION

Section VI consists of two parts: Part I is the certification requirements to be completed by the assignor; Part II is the certification requirements to be completed by the assignee. BOTH PARTIES TO THE TRANSACTION MUST SIGN THE APPLICATION. Depending on the nature of the applicant, this application should be signed as indicated: for a sole proprietor, personally; for a partnership, by a general partner; for a corporation, by an officer; for an unincorporated association, by a member who is an officer; for a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true.